

This letter discusses how prepaid telephone cards are taxed under the Telecommunications Excise Tax Act. See, 86 Ill. Admin. Code Part 495. (This is a GIL.)

December 31, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated September 11, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I have a client who is interested in selling prepaid phone cards.

To insure proper tax reporting, I am requesting the Office of General Counsel to advise of any and all taxes that will be due on the sale of the prepaid phone card - sales tax, telecommunication tax and/or other taxes.

A copy of you letter has been given to our Income Tax Division for a response regarding any income tax issues presented in your letter.

Sales of telephone cards by retailers are not subject to Retailers' Occupation Tax. However, the Telecommunications Excise Tax consequences from sales of cards by retailers may vary depending upon whether we would deem the retail stores to be retailers of telecommunications.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. Please see the enclosed copy of 86 Ill. Adm. Code Part 495.

In some cases, retail stores purchase telephone cards from telephone service providers and then sell the cards to customers at marked-up prices. In this scenario, we do not consider the retail stores to be retailers of telecommunications. In that case, the retail store is not responsible for collecting Telecommunications Excise Tax at the point of sale of the card to its customer or at any other point. The tax is incurred at the time the telecommunications originate or are received in a taxable manner, and the amount of telecommunications charges for which the cards are redeemed by the telephone

service providers would include any amount of Telecommunications Excise Tax incurred. The telephone service providers charge the phone calls and the tax against the balance of the cards as they are responsible for collecting and remitting the tax.

However, in other cases, the stores may purchase telecommunications units from telephone service providers and sell them at retail to their customers. This situation is similar to hotels that sell telecommunications services. See the enclosed copy of Section 495.110. In these cases the retail stores would be required to register as telecommunications retailers and collect and remit Telecommunications Excise Tax. The tax base would be the amounts charged to card purchasers for the taxable services subsequently provided (i.e. calls that originate or terminate in Illinois).

When cards are sold in Illinois, the Department presumes calls will originate or terminate in this State. Retail stores have the burden to establish that charges are exempt from the Telecommunications Excise Tax. The only way to document this would be through records of the telephone service providers. Therefore, as a practical matter, because retail stores will not know when sales are made what taxable services cardholders will later consume, retail stores should charge the tax on the full sales prices of the cards.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Encl.